

AGENDA REQUEST
BUSINESS OF THE ZONING BOARD OF ADJUSTMENT
CITY OF SUGAR LAND, TEXAS

AGENDA OF: 09/29/04 DEPT OF ORIGIN: DEVELOPMENT SVCS. REQ. NO. III A
DATE SUBMITTED: 09/22/04

PREPARED BY: DOUGLAS P. SCHOMBURG, AICP, ASST. CITY PLANNER *D.P.S.*

**SUBJECT: REQUESTED VARIANCE TO THE SIDE YARD SETBACK
REQUIREMENTS IN THE RESIDENTIAL ESTATE (R-1E) DISTRICT**

PROCEEDING: PUBLIC HEARING; CONSIDERATION AND ACTION

CLEARANCES: SABINE A. SOMERS-KUENZEL, AICP, CITY PLANNER *A.K.*

**EXHIBITS: VICINITY MAP, PROPOSED SITE PLAN, APPLICATION,
CORRESPONDENCE**

EXECUTIVE SUMMARY

Mr. and Mrs. Michael and Bonnie Yentzen, are requesting a variance from the Sugar Land Development Code, Chapter 2, Section 2-65 (d)(2), from the required side yard setback of 20' in the Residential Estate (R-1E) zoning district. The property is located at 9506 US Highway 90A (south side) and adjacent to Alkire Lake. The property currently has an older residence at the site, and the applicant proposes to construct a new residence following demolition.

The property in question and the subdivision area east, west, and south was zoned Standard Single Family Residential (R-1) prior to the adoption of the City of Sugar Land Development Code in 1997. Following the Code adoption, the property was included in a city-initiated rezoning to Residential Estate (R-1E). As a result, there are discrepancies within the area relating to lot width, depth, minimum acreage, and setbacks due to lot size, layout, and building construction under the previous R-1 standards. The property at 9506 US Highway 90A does not meet the minimum acreage requirements or width of the R-1E Zoning District. In addition, there is a large gas pipeline right-of-way located across the center of the property, which further hinders development.

PUBLIC HEARING:

The Notice of Public Hearing was published in a newspaper of general circulation, all property owners within 200 feet of the proposed site were notified, and the Public Hearing notice was published on the City of Sugar Land's Internet Home Page. Staff has also placed a courtesy notification sign at the property indicating a public hearing. Staff has received two letters expressing support for the request, and has received one phone inquiry that was informational in nature. The letters are attached for reference.

DEVELOPMENT CODE CRITERIA FOR VARIANCES:

For a variance request to be approved, the Zoning Board of Adjustment is required to consider each case in light of the criteria set forth in the Texas Local Government Code and the City of Sugar Land Development Code:

- (a) There are special circumstances or conditions applying to the land or Building for which the variance is sought, which circumstances or conditions are peculiar to the land or Building and do not generally apply to land or Buildings in the same zoning district or neighborhood, and that the circumstances or conditions are such that the strict application of the provisions of these regulations would deprive the applicant of reasonable use of such land or Building; and
- (b) The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the district or neighborhood in which the property is located; and
- (c) The granting of a variance is necessary for the reasonable use of the land or Building and is the minimum variance that will accomplish this purpose.
- (d) That literal enforcement and strict application of the provisions of these zoning regulations will result in an unnecessary hardship inconsistent with the general provisions and intent of these zoning regulations and that, in granting the variance, the spirit of these zoning regulations will be preserved and substantial justice done.

ANALYSIS:

(a) SPECIAL CIRCUMSTANCES

There are two key special circumstances relating to the property in question. First, the city-initiated rezoning from R-1 to R-1E in 1997 applied estate zoning to a lot that did

not meet the width or acreage requirements for that district. This created a unique circumstance for future development on the property. As an example of this, the lot width for new lots platted under R-1E regulations is 125'. However, the lot in question is only 87' in width. Another key circumstance relating to the land is the presence of a large gas pipeline easement across the property (approximately at the center of the lot), which significantly limits buildable area and options for placement of any new structure at the site. Recorded documents for the gas pipeline indicate that the easement dates back to 1948.

(b) PUBLIC WELFARE

Public welfare will not be jeopardized by approval of this requested variance.

(c) REASONABLE USE OF LAND

The strict application of this provision could deprive the property owner of reasonable use of the land due to limited options in building area. Since the lot has the limitation of the pipeline easement and does not meet the width of an R-1E lot, application of 20' side setbacks on each interior side appear to limit the reasonable use of the property.

(d) SUBSTANTIAL HARDSHIP

The issues of rezoning large areas of property that were previously subdivided and developed to a different zoning district classification can create hardships for lots. In addition, the presence of large right-of-ways or easements for major gas or electric transmission lines can also cause hardships that are not the result of property owners' actions. This property appears to meet the substantial hardship criteria based on the factors previously described.

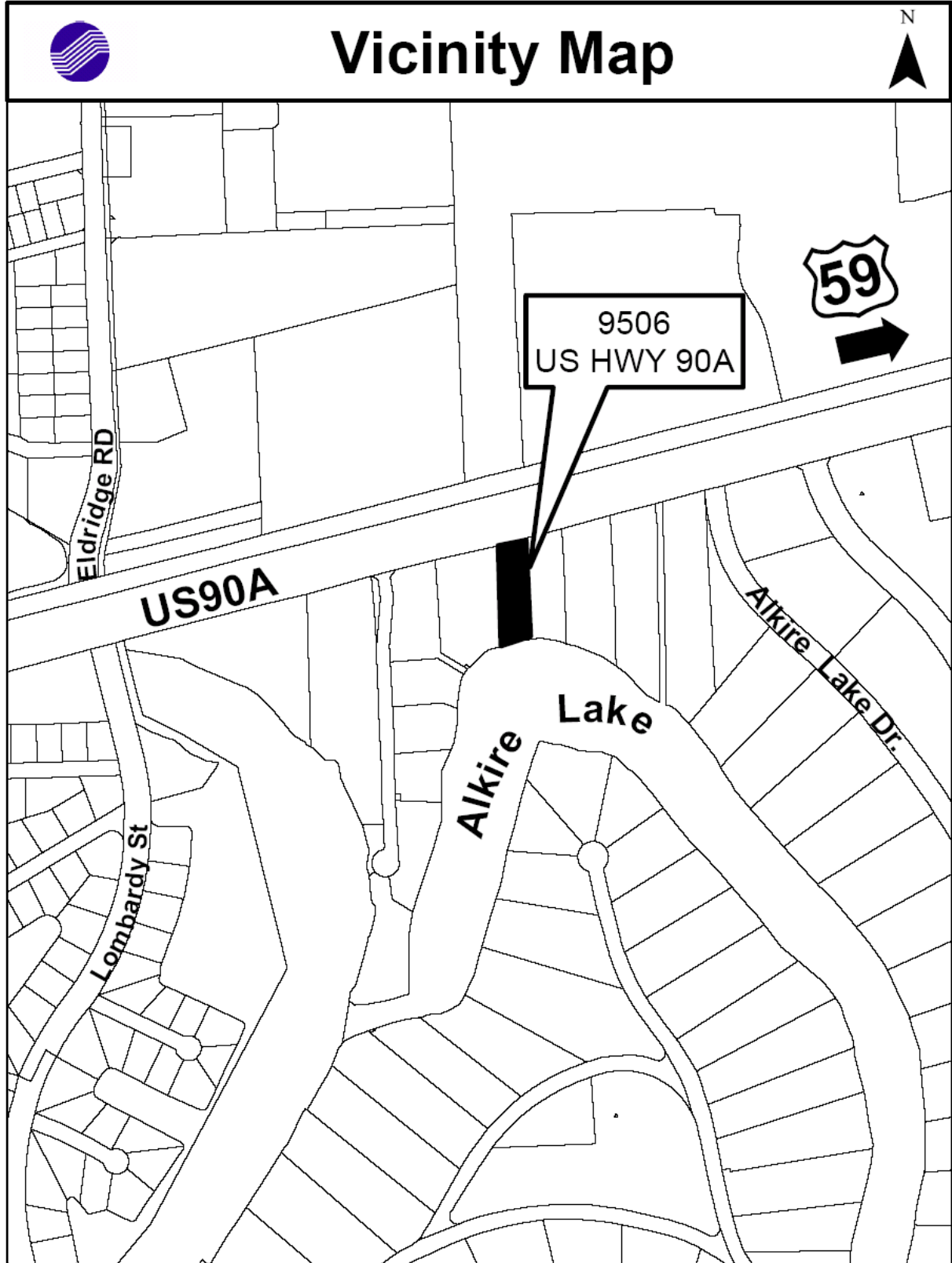
CONCLUSIONS AND RECOMMENDED ACTION:

Hold a Public Hearing in accordance with Chapter 2 of the Development Code and State Law. The Planning Division has concluded that the site appears to meet the four variance criteria for approval by the Zoning Board of Adjustment. Therefore, the proposed variance allowing a 5' side setback is recommended for approval.

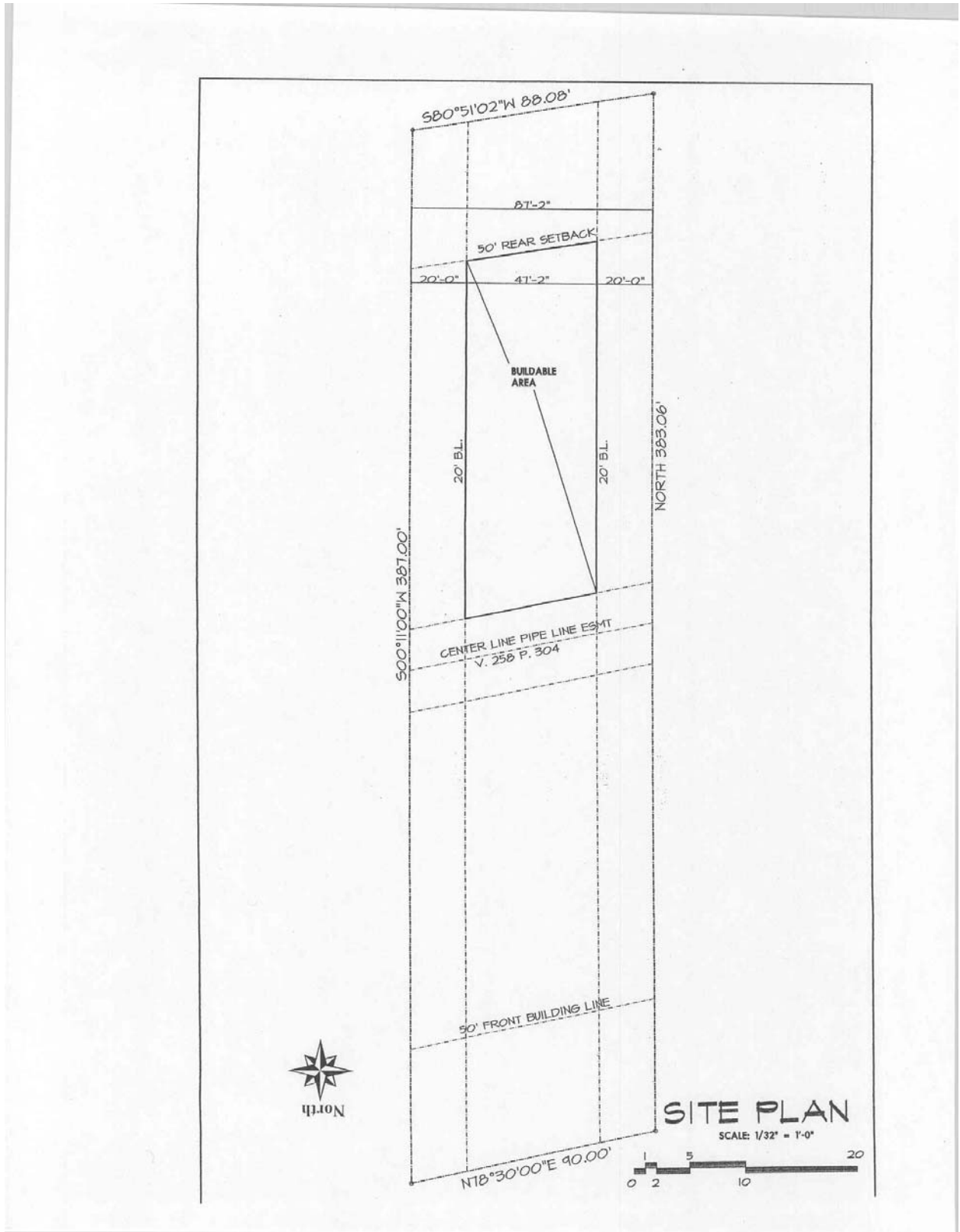
CC: Michael Yentzen Fax: (281) 494-8223

File No.: P0002276

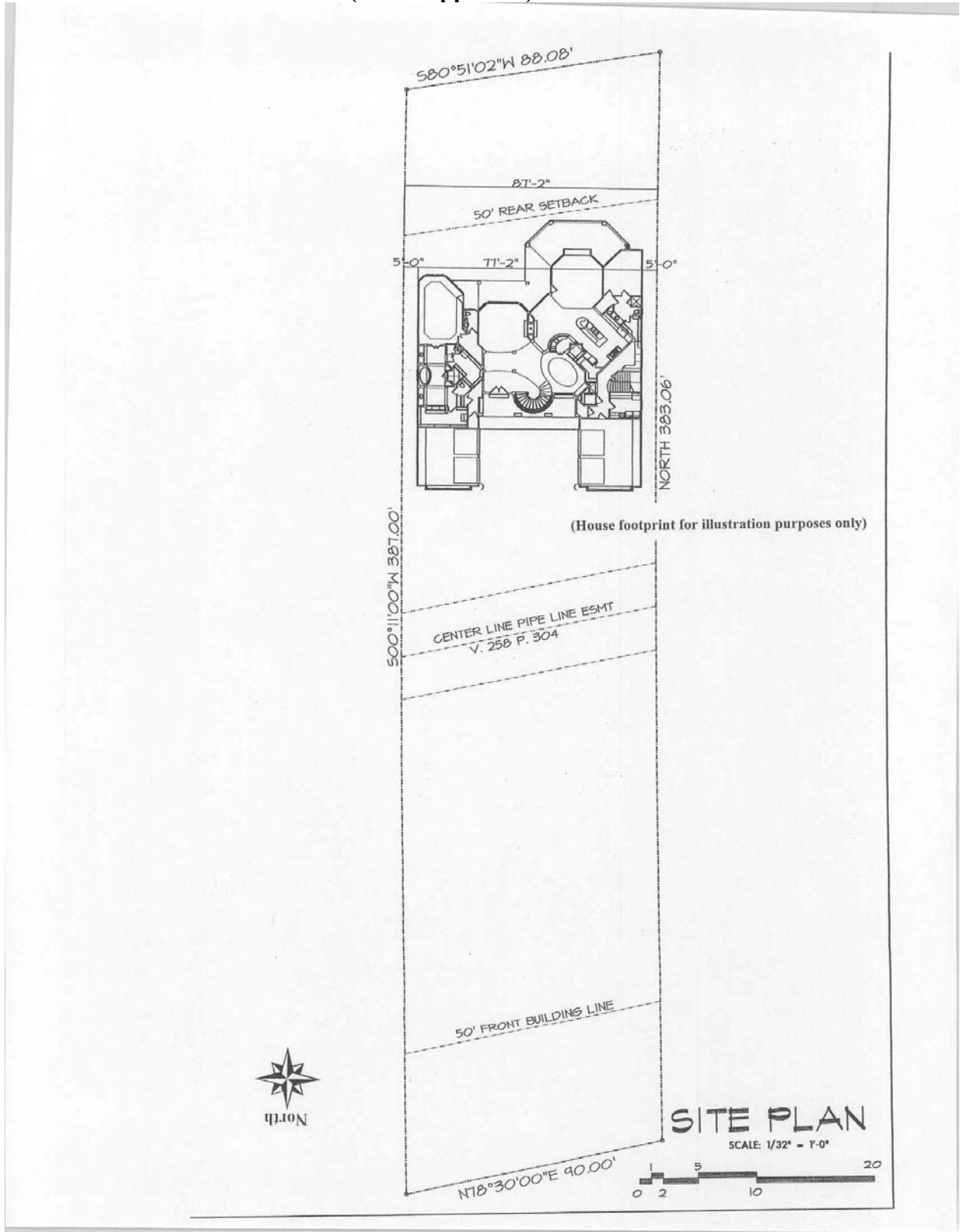
Vicinity Map:



Site Plan Sketch for ZBA: (From Applicant)



Site Plan Sketch No. 2 for ZBA: (From Applicant)



Application:

HTE# 04-40000006

ZBA Variance

VR04.002



CITY OF SUGAR LAND

CURRENT PLANNING DIVISION
Variance Request Form

9506
90A
alkire
lake

Applicant: Mike and Bonnie Yentzen

Company:

Address: 3011 Old Masters Drive Sugar Land, Texas 77479

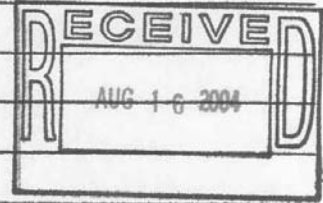
Phone: 281-491-2321 or Cell 713-249-3960 **Fax:** 281-494-8223

Owner: Mike and Bonnie Yentzen

Company:

Address:

Phone: **Fax:**



Subdivision/Project Name: Alkire Lake - 9506 Highway 90-A Sugar Land, Tx.

Type of Variance: Building Side Setbacks

Section of ordinance from which variance is being sought: Chapter 2
Section 2-42

Variance justification: My lot, being unique and the most narrow of all lots to which R-1E applies, renders the lot, without a variance not feasible for residential construction. By granting this variance, it would make this lot consistent with the purposes for which the R1-E zoning was adopted.

This is to certify that the information on this form is COMPLETE, TRUE and CORRECT and the undersigned is authorized to make this application.

Mike and Bonnie Yentzen

Mike Yentzen Bonnie Yentzen August 17, 2004
Signature of Applicant **Date**

Submittal Requirements

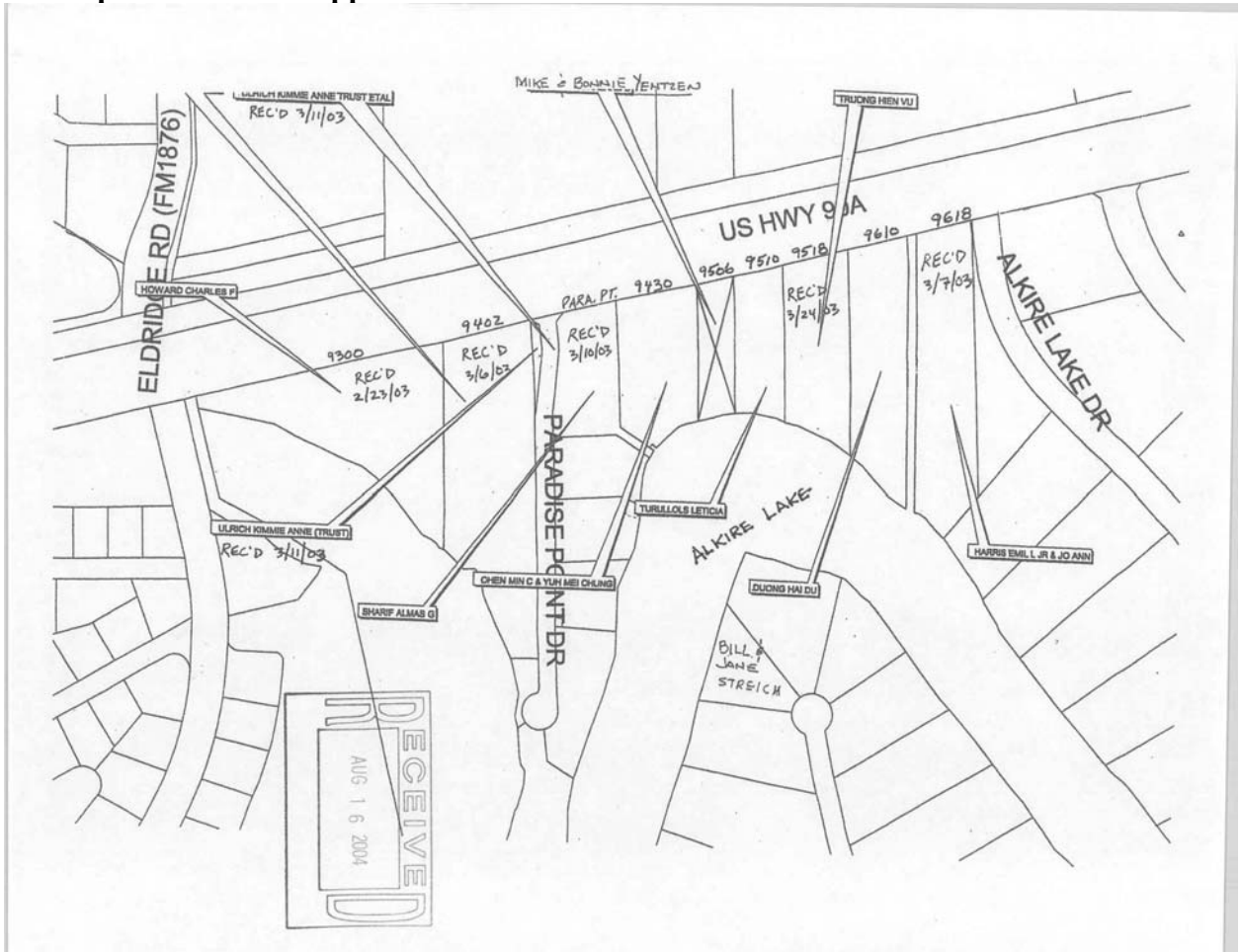
- ☒ Completed Application
- ☒ Submittal Fee \$400 (non-refundable)
- ☒ Three (3) copies of the site plan or plat, including vicinity map
- ☒ Names and mailing addresses of all property owners and tenants within 200 feet of the site (if applicable)

Correspondence from Applicant:

Provided by Applicant

	R- 1E	R- 1E	R- 1
Lot Width	125 Feet	87 Feet	87 Feet
Set Backs	(40) Feet	(40) Feet	(10) Feet
Building Width	85 Feet	47 Feet	77 Feet

Correspondence from Applicant:



Letter from City of Sugar Land: (To Applicant)



CITY OF SUGAR LAND

PLANNING & ZONING

June 11, 2004

Mr. W. Michael Yentzen
3134 Old Masters Drive
Sugar Land, Texas 77479

FAX: (281) 494-8223
PHONE: (281) 491-2321

Re: 0.8 Acre Property on South Side of US HWY 90A / Variance Procedures

Dear Mr. Yentzen:

This letter is in response to our recent discussion regarding property being approximately 0.8 acres recorded in Vol. 233, page 629 of the Deed Records of Fort Bend County, and further identified as on the south side of US HWY 90A and south of the US HWY 90A and Gillingham Lane intersection. The property is currently zoned Residential Estate (R-1E), and according to the information provided, is exempt from platting requirements due to being in the same configuration prior to 1959, and complying with Chapter 5, Subdivision Regulations, Section 5-6 Exemptions, B. According to the R-1E District requirements, an interior side yard of 20' is required for all new construction.

Our discussion included procedures for a possible variance to the 20' side yard requirement, and the Zoning Board of Adjustment criteria. The Zoning Board of Adjustment does not have a standing meeting, and meets on an "as needed" basis. Typically, from the time that an applicant turns in a complete application, there is a time period of approximately four to six weeks until a Public Hearing and decision by the ZBA. The following variance criteria are followed, based on Chapter 211 of the Texas Local Government Code, and Chapter 2, Section 2-42, Development Code of the City of Sugar Land:

- (a) There are special circumstances or conditions applying to the land or Building for which the variance is sought, which circumstances or conditions are peculiar to the land or Building and do not generally apply to land or Buildings in the same zoning district or neighborhood, and that the circumstances or conditions are such that the strict application of the provisions of these regulations would deprive the applicant of reasonable use of such land or Building; and

- (b) The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the district or neighborhood in which the property is located; and
- (c) The granting of a variance is necessary for the reasonable use of the land or Building and is the minimum variance that will accomplish this purpose.
- (d) That literal enforcement and strict application of the provisions of these zoning regulations will result in an unnecessary hardship inconsistent with the general provisions and intent of these zoning regulations and that, in granting the variance, the spirit of these zoning regulations will be preserved and substantial justice done.

The following comments are based on a preliminary review of the materials submitted, and a staff position recommending approval would be based on an analysis as follows:

- (a) The property is unique in size and does not meet the minimum R-1E lot width or acreage. This factor is unique to the property.
- (b) The granting of a variance to the side setback for 5' would not likely be detrimental to the public welfare.
- (c) A variance that could preserve side setbacks not less than the former R-1 zone, but retain the current 50' front and rear setbacks could be viewed as reasonable.
- (d) Some lots in the area are suitable for R-1E standards due to size and acreage. The subject lot is closer to R-1R (Restricted Single-Family Residential) in width and acreage, and had been zoned R-1 prior to 1997.

A compelling reason for supporting a variance is that the property does not meet R-1E minimum requirements as to width (125') or acreage (1.5 acres) and until 1997, was under a district that allowed side setbacks of 5'. All four criteria appear to be able to be addressed by the proposed variance. I hope this information proves helpful. If there are additional questions, please contact me at (281) 275-2818.

Sincerely,

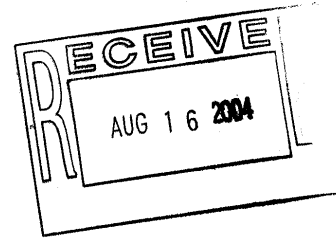


Douglas P. Schomburg, AICP
Assistant City Planner

DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

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Correspondence from Citizens: (Neighboring Property Owner to West)



Date: July 9, 2004

To: Zoning Board of Adjustment
Sugar Land, Texas

From: Min-Chu Chen & Yuh-Mei Chung
1006 Cardinal Ave.
Sugar Land, Texas 77478

Re: 9506 Hwy 90-A
Sugar Land, Texas 77478

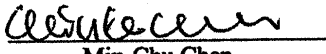
To Whom It May Concern:

This letter is in regard to the above referenced property concerning a variance. We are the owners of the property at 9430 Hwy 90-A which is adjacent to the west side of 9506 Hwy 90-A.

Mr. & Mrs. Yentzen met with us and explained the problem with the building side set backs on the property. We have no objection to your granting the property a variance to five foot building side set backs from the current twenty foot building side set backs.

The removal of the old house on the property will be an improvement to the area.

Sincerely,


Min-Chu Chen

&
&


Yuh-Mei Chung

Correspondence from Citizens: (Former Property Owner in Alkire Area)

August 11, 2004

Zoning Board of Adjustment
Sugar Land, Texas

RE: 9506 Highway 90-A
Sugar Land, Texas 77478

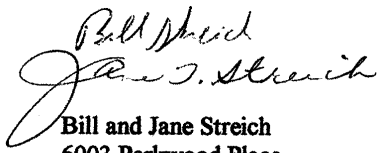
To Whom It May Concern:

In 1997, we resided at 306 West Alkire Lake Drive in Sugar land, Texas. A meeting was held that year at the home of Terry Poole in the Alkire Lake subdivision. In attendance were many residents, several city council members and planning and zoning commissioners. Mr. Chuck Harrington, Development Services Director for the City of Sugar Land, made a presentation proposing to change the Tri-Lakes area from R-1 to a new classification called R1-E (the E designating Estate Homes). This was to be an overlay to an existing area.

During the question and answer period, knowing we were going to be selling our home and property in the future, I asked "what will happen to our lot and other small lots on Alkire Lake should a future buyer wish to tear down and rebuild?" Our lot was a very small cul de sac lot and being much smaller than the minimum lot size, it would be very hard to build on because of the new set-backs of 50 feet on the front and back and 20 feet on the sides. Mr. Harrington's answer was that there would be no problem for the lots that did not conform to the minimum lot size for R1-E as the City of Sugar Land had a variance procedure that would take care of any undersized lots.

We felt comfortable that the new R1-E designation would not have a negative effect on our property value and our ability to sell when Mr. Harrington assured us that a variance could be granted to buyers of undersized properties.

Sincerely,


Bill and Jane Streich
6003 Parkwood Place
Sugar land, Texas 77479

